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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 SERENA CRAWFORD,

17 Case No. 3:16-cv-00323-LRH-WGC

18 vs. Plaintiff,

19 **STIPULATED PROTECTIVE ORDER**

20 DEERPATH CORPORATION, dba SCOPE  
21 SERVICES; DOES 1 THROUGH 10, inclusive,

22 Defendant.

23 Pursuant to Federal Rule of Civil Procedure 26(c), the Parties, Serena Crawford  
24 (“Plaintiff”) and Deerpath Corporation, dba Scope Services (“Defendant”) submit this proposed  
25 Stipulated Protective Order for the purpose of ensuring that confidential information exchanged  
26 in discovery and possibly submitted by the Parties in the above-referenced case is not disclosed  
27 to or used for any purpose outside of the above-captioned lawsuit.

28 During the course of this case, documents and information considered confidential  
1 and/or sensitive by at least one of the Parties may be disclosed, including but not limited to  
2 employment records and/or information related to current and former employees and third-party

1 individuals who are not parties to this litigation, personal identifying information for said non-  
2 parties, commercial, financial or other business proprietary information, and medical records.

3 The Parties agree that a Protective Order is necessary in light of the need to protect  
4 confidential commercial, financial and proprietary information from public disclosure, the fact  
5 that the disclosure of confidential employment records and related information would  
6 potentially subject the Parties to liability from claims by such non-party employees, former  
7 employees, and/or third-party individuals, the disclosure of the confidential employment records  
8 of nonparty employees, former employees, and third-party individuals could harm such  
9 individuals, interfere with other job opportunities or relationships, impact their reputation, and  
10 cause them undue embarrassment and/or distress, the obligation to protect the confidential  
11 employment records of non-party individuals, and due to the sensitive nature of confidential  
12 investigations, the disclosure of which could harm the employees, former employees, or third-  
13 party individuals.

14 For these reasons, the Parties hereby stipulate, subject to approval and entry by the  
15 Court, to the following:

16 **I. Definitions and Terms**

17 1. “Confidential Information” means any document, information, or material, which  
18 the producing party or protected person reasonably believes not to be in the public domain and  
19 reasonably believes contains proprietary or confidential information, or information to which an  
20 individual or company has an established and legitimate right to privacy or confidentiality,  
21 including any document, information, or material contained in any personnel file, medical  
22 records, confidential records, corporate records, financial records, donor lists, commercial or  
23 trade secret information of a sensitive and/or proprietary nature, competitive information and  
24 income tax records or information.

1       2. "Disclosed" is used in its broadest sense and includes, *inter alia*, directly or  
2 indirectly shown, divulged, revealed, produced, described, transmitted or otherwise  
3 communicated, in whole or in part.

4       3. "Discovery Material(s)" means any Confidential Information presented in  
5 documents, answers to interrogatories, responses to requests for admission, deposition  
6 testimony, deposition transcripts and exhibits, other responses to requests for information and/or  
7 written information, whether produced voluntarily or involuntarily, in response to discovery  
8 requests in this litigation by any party.

9       4. "Document" is defined as the term is used in Federal Rule of Civil Procedure 34.

10       5. "Under seal" is defined as sealing confidential documents consistent with the  
11 procedure laid out by Local Rule 10-5 and the Court's electronic filing procedures. In the event  
12 that the Court publishes a new procedure for the filing of documents under seal, the Parties may  
13 follow said published procedure.

14       **II. Types of Materials that May be Designated as Confidential**

15       Any Discovery Material, as defined above, may be designated by a producing party as  
16 Confidential under this Order. The assertion of this designation of "Confidential" shall  
17 constitute a representation to the Court that counsel for the producing party or protected person  
18 believes in good faith that the material so designated constitutes Confidential Information as  
19 defined in this Order. Except with the prior written consent of the producing party or by court  
20 order or as otherwise compelled by force of law, no Discovery Materials stamped  
21 "Confidential" may be disclosed to any person except as permitted in section IV.

22       **III. Designation of Discovery Materials as Confidential**

23       A producing party may designate as confidential Discovery Materials containing  
24 Confidential Information by stamping or otherwise marking the designated material as

1 “Confidential.” The fact that a document is stamped “Confidential” by one party shall not be  
2 construed as an admission by any other party that such document is confidential, nor shall it  
3 limit or preclude the right of any party to object to the “Confidential” designation and to file any  
4 appropriate motion(s) to determine the propriety of such designation. If the producing party  
5 inadvertently fails to stamp or otherwise appropriately designate or list certain documents,  
6 material, or information as “Confidential” upon their production or disclosure, such inadvertent  
7 failure to designate shall not constitute nor be deemed a waiver of a subsequent claim of  
8 protected treatment under this Order.

9  
10 Any party may add the designation “Attorneys’ Eyes Only” to any Confidential  
11 information when that party believes in good faith that such Confidential Information is so  
12 sensitive that the disclosure of such Confidential Information to the adverse party or others will  
13 be, or has the potential of being, prejudicial to the producing party, its business operations or  
14 any non-party individuals who may be the subject of and/or referenced in such Confidential  
15 Information. “Attorneys’ Eyes Only” Confidential Information may be disclosed, given or  
16 shown only to counsel of record in this action, and the employees of such counsel.  
17

18 Any party may also designate information disclosed in deposition as “Confidential” or  
19 “Attorneys’ Eyes Only” by notifying all of the parties in writing within thirty (30) days of  
20 receipt of the transcript, of the specific pages and lines of the transcript which should be treated  
21 as “Confidential” or “Attorneys’ Eyes Only” thereafter. Each party shall attach a copy of such  
22 written notice or notices to the face of the transcript and each copy thereof in his possession,  
23 custody or control; provided, however that each and every deposition transcript shall be treated  
24 as “Attorneys’ Eyes Only” for a period of thirty (30) days after the receipt of the transcript.  
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26 To the extent possible, the court reporter shall segregate into separate transcripts  
27 information designated as “Confidential” or “Attorneys’ Eyes Only,” with blank, consecutively  
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1 numbered pages being provided in a non-designated main transcript. The separate transcript  
2 containing "Confidential" and/or "Attorneys' Eyes Only" information shall have page numbers  
3 that correspond to the blank pages in the main transcript.

4 Any party's inadvertent or unintentional failure to designate protected information shall  
5 not be deemed a waiver in whole or in part of that party's claim of confidentiality, as long as the  
6 disclosing party notifies all parties in writing that such protected information constitutes  
7 Confidential Information within seven (7) days after learning that the protected information was  
8 inadvertently or unintentionally produced without an appropriate confidentiality designation.  
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10 The terms of this Stipulated Protective Order apply, without limitation, to all documents  
11 and information exchanged between the parties in the course of this litigation, whether or not  
12 such documents and/or information were exchanged prior to the entry of this Order and/or were  
13 designated as "Confidential." This provision allows a party to designate a previously produced  
14 document as "Confidential."

15 **IV. Objection to a Designation of Discovery Materials as "Confidential"**

16 Any party may contest the designation of documents, information and Discovery  
17 Materials as "Confidential" by serving a written objection (by letter to the designating party) to  
18 the Confidentiality designation within ten (10) calendar days of the date the designation was  
19 made. Upon service of such objection, the Parties shall make a good faith effort to resolve the  
20 issue informally. If that effort fails, the confidentiality designation shall expire unless, within  
21 three (3) weeks of service of the objection, or such additional time as may be agreed upon the  
22 Parties, the Party seeking confidentiality applies to the Court for an order designating the  
23 document or information confidential. If such an application is made, the document or other  
24 information marked "Confidential" which is in dispute shall remain "Confidential," as the case  
25 may be, until the dispute is resolved by and between or among the Parties and so confirmed in  
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writing or, if necessary, until order of the Court. On any such application, the proponent of  
1 confidentiality shall have the burden of showing, by a preponderance of the evidence, good  
2 cause for the claimed protection. The Court shall have the authority to award sanctions on any  
3 such application or motion.

4

5 **V. Permissible Use of "Confidential" Information, Documents, or Materials**

6 Notwithstanding Section II above, documents stamped "Confidential" may only be  
7 disclosed to: (i) the Parties; (ii) all attorneys representing the Parties in this matter; (iii) para-  
8 professionals, secretaries, and other non-attorney personnel who are employed by firms or by  
9 individual attorneys representing the Parties in this matter but only to the extent that disclosure  
10 to such person(s) is necessary in order for them to assist attorneys in connection with this  
11 matter; (iv) the Court and all Court personnel, including stenographers employed to record and  
12 transcribe testimony given upon sworn statement, deposition, and/or trial; (v) experts or  
13 consultants retained by a party or attorney of record for purposes of litigation to the extent  
14 necessary to perform specific duties in connection with this action; (vi) deponents; and (vii) any  
15 person that originally authored or received the designated document or demonstrably gained  
16 knowledge of it in the regular course of business, as ascertained based on the document itself or  
17 prior sworn testimony. To the extent such Confidential Information is disclosed to Court  
18 personnel or filed with the Court it may, upon a showing sufficient to satisfy the requirements of  
19 the Court concerning sealed documents and Local Rule 10-5, be done Under Seal.

20

21 Persons obtaining access to Discovery Materials or other documents, information, or  
22 materials stamped "Confidential" pursuant to this Order shall use the information only for the  
23 purpose of this matter, through and including appeal(s) and shall not use such information for  
24 any other purpose, including business, governmental, commercial, administrative, or judicial  
25 proceedings, unless required by court order or being compelled by force of law. Counsel shall  
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1 require any person who receives information covered by this Order to sign an agreement, in the  
2 general form as attached hereto as Exhibit A, whereby the person receiving such information  
3 agrees to protect the confidentiality of that information in a manner consistent with the terms of  
4 this Order. If any person receiving information covered by this Order is: (a) subpoenaed in  
5 another action or proceeding; (b) served with a request or demand in another action to which he,  
6 she, or it is a party; or (c) served with any other legal process by one not a party to this action,  
7 seeking information designated as "Confidential" pursuant to this Order, the subpoenaed party  
8 shall: (i) promptly give written notice, by hand or facsimile transmission, within forty-eight (48)  
9 hours of receipt of such subpoena, request, demand, or legal process to the party that produced  
10 or designated the material as "Confidential;" (ii) decline to produce such material unless  
11 otherwise ordered by a court or other tribunal or body with lawful authority to compel  
12 disclosure; and (iii) respond to any effort to enforce such subpoena, request, demand, or other  
13 legal process by setting forth the existence of this Order. The subpoenaed party or anyone else  
14 subject to this Order shall be under no obligation to take any other action or measures to  
15 preserve the confidentiality of any such information in connection with such subpoena, request,  
16 demand, or legal process. Nothing herein shall be construed as requiring the subpoenaed party  
17 or anyone else covered by this Order to challenge or appeal any order requiring production of  
18 Confidential Information, to subject itself to any penalties for non-compliance with any legal  
19 process or order, or to seek any relief from the Court.

22 **VI. Miscellaneous**

23 1. The provisions of this Agreement shall not terminate at the resolution of this  
24 matter.

26 2. Within sixty (60) days after the final conclusion of this matter, documents  
27 stamped "Confidential" and all copies of such documents, other than exhibits of record, shall be

1 destroyed or returned to the party who produced the documents and designated them as  
2 "Confidential." Notwithstanding the foregoing, each party's counsel may retain for its files a  
3 copy of all pleadings, motions, exhibits, or other materials filed and/or lodged with the Court,  
4 and all documents designated by any party or any non-party as "Confidential" and/or summaries  
5 or abstracts thereof (including but not limited to documents of any type prepared by a party  
6 and/or counsel that are subject to the attorney-client privilege and/or the attorney work product  
7 doctrine), provided that such "Confidential" records and attorney work product are prominently  
8 marked with the statement: CONFIDENTIAL: This envelope contains documents that are  
9 subject to a Protective Order entered into by the parties and/or by the Court in this action  
10 governing the use of confidential discovery materials.

12       3. Nothing in this Order shall prevent any party or other person from seeking  
13 modification of this Order or from objecting to discovery that it believes to be otherwise  
14 improper. In agreeing to this Order, the Parties also do not waive any privilege or protections  
15 which they or any of them may otherwise have regarding Confidential Information.

17       4. In stipulating to this Order, the Parties are not waiving any rights they have to  
18 obtain information or materials, in whatever form, through the discovery rules as embodied in  
19 the Federal Rules of Civil Procedure.

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1       5. This Order, however, shall not be modified absent further order of the Court or  
2 the written agreement of all the Parties hereto.  
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4       IT IS SO STIPULATED.  
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6       By: /s/ John D. Moore  
7

John D. Moore, Esq.  
Nevada State Bar No. 8581  
Attorney for Serena Crawford  
john@moore-lawgroup.com

By: /s/ Robert Rosenthal  
Robert L. Rosenthal, Esq.

Nevada State Bar No. 6476  
Attorney for Deerpath Corporation  
rlr@h2law.com

8       Dated this 3<sup>rd</sup> day of October, 2016

9       Dated this 3<sup>rd</sup> day of October, 2016

10       **ORDER**  
11

12       Any document filed under seal must comply with LR IA 10-5 and the requirements of  
13       *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006) and *Center for Auto*  
14       *Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016). Line 21 of p.6 of this Order  
15       is modified accordingly.

16       IT IS SO ORDERED.  
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20       UNITED STATES MAGISTRATE JUDGE  
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22       DATED: October 3, 2016.  
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**EXHIBIT LIST**

A. ACKNOWLEDGMENT OF PROTECTIVE ORDER AND AGREEMENT TO BE BOUND

# **EXHIBIT A**

**EXHIBIT "A"**

**ACKNOWLEDGMENT OF PROTECTIVE  
ORDER AND AGREEMENT TO BE BOUND**

I, the undersigned, state as follows:

1. I certify and declare under penalty of perjury that I have read and understand the Protective Order issued on October \_\_\_, 2016 ("the Order"), in the case *Serena Crawford v. Deerpath Corporation, dba Scope Services*, Case No. 3:16-cv-00323-LRH-WGC ("the Lawsuit").
2. I agree to comply with and be bound by the provisions of the Order.
3. I will not copy or use any documents marked "CONFIDENTIAL" that are disclosed to me in connection with the Lawsuit, and I will not disclose any such documents to anyone else unless authorized to do so by the Court or by counsel for Deerpath Corporation, dba Scope Services.
4. I acknowledge that any unauthorized use or disclosure of documents marked "CONFIDENTIAL" may constitute contempt of Court, and I consent to personal jurisdiction in the United States District Court, District of Nevada, with regard to enforcement of this Order.

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Signature

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Print Name

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Date